

July 21  
December 6, 1948

Mary B. Price, School Lunch Director  
Department of Public Instruction  
Capitol Building  
Phoenix, Arizona

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Dear Miss Price:

We have your letter of November 18, 1948, requesting an opinion from this office on the following question: Is the Arizona Institute of Educational Rehabilitation a penal institution or nonpenal institution within the meaning of the requirements set forth by the United States Department of Agricultural Production and Marketing Administration Food Distribution Programs Branch?

The Arizona Institute of Educational Rehabilitation was established by Chapter 141, Senate Bill 69 of the Regular Session of the 18th Legislature. Subsequently the State of Arizona procured the necessary land and buildings to conduct this school from the Federal Government under an agreement dated February 18, 1948, by which the State agreed to conduct the Arizona Institute of Educational Rehabilitation as an educational institution. This agreement provides that inmates lacking in formal education will be given classes in reading, writing, language, arithmetic, social studies on the primary level and comparable work in the secondary level. All teachers employed will be regularly certified and fully qualified and the secondary school will be accredited by the State Department of Public Instruction.

In addition they will give vocational training in the various fields, and this training will meet the requirements of the Vocational Training Program and will employ teachers properly certified.

Therefore, under our agreement with the United States Government, the Arizona Institute of Educational Rehabilitation can only be an educational institution and nonpenal.

It is true that the persons attending this school are all inmates of the State Penitentiary and the teachers and pupils are under control of the Warden of the State Penitentiary, however, no one is required to attend the school, but it is merely to help the prisoners rehabilitate themselves - and is in no sense a penalty or penal.

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Section 3 of the requirements for determining of eligibility to participate in the distribution of commodities states:

"The institution is nonpenal. Determination as to whether or not an institution is penal or nonpenal shall be based upon the State Statute establishing the institution or other appropriate legislation."

Therefore, after a careful consideration of the statute establishing this institution and the contract made with the Federal Government regarding the use of the land and buildings, we are of the opinion that the Arizona Institute of Educational Rehabilitation is non-penal.

Very truly yours,

EVO De CONCINI  
Attorney General

JOSEPH PYLE RALSTON  
Assistant Attorney General

JPR:lh